IN THE HIGH COURT OF BOMBAY AT GOA
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WRIT PETITION NO. 296 OF 2003

Armando Dias,
r/o H.No.234,
Bironaik Vaddo,
Orlim, Salcete, Goa. ... Petitioner

Versus

1. The Chief Officer,
Margao Municipal Council,
Margao, Goa,

2. The South Goa Planning &
Development Authority,
through its Member Secretary,
Margao, Goa,

3. The Collector of South Goa,
Margao, Goa, and

4. Ramdas Chandrakant Naik,
near Chapel of Santas
Almas, Station Road,
Near Bank of Goa,
Margao, Goa. ... Respondents.

Shri Aires Rodrigues, advocate for the petitioner.

Shri S. D. Padiyar, advocate for respondent no.1.

Shri A. P. Lawvande, advocate for respondent no.2.

Shri S. Vahidulla, Addl. Govt. Advocate for respondent no.3.

Shri S. D. Lotlikar, Senior Advocate with Shri A. D. Bhobe, advocate for respondent no.4.

CORAM : F. I. REBELLO &
P. V. HARDAS, JJ.

DATE : 15th July, 2003.

ORAL JUDGMENT (Per Rebello, J.)

Rule. Respondents waive service. Heard forthwith.

Considering the affidavit filed on behalf of

respondent no.1 and as the shutter put by the respondent no.4 was clearly without any licence from the Margao Municipal Council, respondent no.4 was called upon to inform the Court as to whether he would voluntarily remove the shutter, as the Court was otherwise inclined to seal the premises. Learned counsel for respondent no.4 after taking instructions from respondent no.4, who is also present in Court, makes an averment that the rolling shutter will be removed within eight days from today. The statement is accepted.

2. The other issue as to whether the construction is legal or illegal is in issue before the Municipal Appellate Tribunal and, therefore, it would not be appropriate for this Court to consider the said issue and that is left open for consideration by the Municipal Appellate Tribunal on its own merits. Considering that it is the petitioner who has brought the facts to the notice of the Court, on which respondent no.1 has issued notice, it will be open to the petitioner to move the Municipal Appellate Tribunal for being impleaded as intervenor. In that event the Tribunal will hear the petitioner before passing the final order.

In the light of that the following directions:-

(i) The Municipal Appellate Tribunal is directed to

dispose of the appeal pending before it within three months from today, after hearing the petitioner herein, if he applies for intervention.

(ii) Respondent no.4 is directed to remove the rolling shutter within eight days from today.

(iii) It is made clear that the rolling shutter has been directed to be removed only because there is no licence for it. After the shutter is removed, it will be open to respondent no.4 to apply to the Council for necessary licence, which should be considered according to law by the Council and accordingly decided.

Rule made accordingly. In the circumstances of the case there shall be no order as to costs.

F. I. REBELLO, J.

P. V. HARDAS, J.

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